

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

AMERICAN AERIAL SERVICES, INC.)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
TEREX USA, LLC, and)	
THE EMPIRE CRANE COMPANY, LLC)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant, Terex USA, LLC ("Terex"), and defendant The Empire Crane Company, LLC ("Empire"), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby give notice of the removal of this case and states as follows:

1. This case was commenced in the Superior Court County of Cumberland, State of Maine and is now pending in that Court. Process was served on Terex on November 7, 2012. This action is removed timely pursuant to 28 U.S.C. § 1446(b)(1).

2. Jonathan Dunitz's affidavit is attached hereto as Exhibit 1. A copy of the summons issued for Terex is attached thereto and marked as Exhibit A. A copy of Plaintiff's Complaint setting forth a claim for relief upon which the action is based is attached thereto and marked as Exhibit B. A copy of Plaintiff's Summary Sheet is attached thereto and marked as Exhibit C. A copy of the Cumberland County Superior Court's Docket Sheet is attached thereto and marked as Exhibit D. A copy of the letter from Terex's agent for service of process of the Complaint is attached thereto and marked as Exhibit E. A copy of Notice of Filing of Notice of Removal is attached

thereto as Exhibit F. A copy of the summons issued for Empire is attached as thereto as Exhibit C.

3. Plaintiff is a Maine corporation with its principal place of business in Falmouth, Maine.

4. Terex is a Delaware limited liability company with its principal place of business in Westport, Connecticut.

5. Empire is a New York limited liability company with its principal place of business located in Syracuse, New York.

6. This is a civil case over which the District Courts of the United States have original jurisdiction pursuant to 28 U.S.C. § 1332. The action is between citizens of different states and the amount in controversy exceeds the value of \$75,000.00. Plaintiff's Complaint alleges in December of 2011, Plaintiff purchased 2011 Terex T780 Truck Crane ("Crane") for the price of \$615,000.00. Exhibit 1 to Plaintiff's Complaint. Plaintiff's Complaint alleges the Crane was manufactured by Terex and purchased from Empire. Plaintiff alleges there were numerous problems with the Crane and the Crane failed an inspection in August of 2012. Plaintiff's Complaint at ¶¶ 11, 12. Plaintiff seeks to return the Crane and requests that Defendants return the purchase price to Plaintiff together with Plaintiff's alleged incidental and consequential damages. Plaintiff's Complaint at ¶ 25, 26, and 27. Alternatively, Plaintiff seeks unspecified damages and punitive damages. The amount in controversy exceeds \$75,000.00.

7. This is the kind of action over which United States District Courts have original jurisdiction because it involves citizens of different states. Terex and Empire, constituting all defendants in this case, consent to the removal of this action.

8. Copies of all process and pleadings served on the Defendants to date are attached to the Affidavit of Jonathan M. Dunitz, Exhibit 1 hereto, as Exhibits A, B, C, E, F and a copy of the Civil Docket sheet is attached thereto as Exhibit D.

9. Defendants are serving a true and correct copy of this pleading upon Plaintiff through his attorneys both electronically (using the CM/ECF system) and by first class U.S. mail, postage pre-paid.

10. Defendants are also serving a true and correct copy of this pleading upon the Clerk of the Cumberland County, Maine Superior Court by first class U.S. mail, postage pre-paid.

Dated at Portland, Maine on November 27, 2012.

Respectfully submitted,

/s/Jonathan M. Dunitz

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Jonathan M. Dunitz, Esq.

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LLC

CERTIFICATE OF SERVICE

The undersigned certifies that, on November 27, 2012, the foregoing document was filed with the Clerk of the United States District Court for the District of Maine using the CM/ECF system which will send notification of such filing to all persons who have entered an appearance.

The undersigned certifies that on November 27, 2012, a copy of the foregoing document was served by United States first class mail, postage prepaid, on:

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Attorney for Plaintiff

/s/Jonathan M. Dunitz